



ASSAM ELECTRICITY REGULATORY COMMISSION  
ORDER SHEET

FILE NO. AERC 826/2022/11

PETITION NO: 05/2022

CORAM: HON'BLE SHRI K.S. KRISHNA  
HON'BLE SHRI S.N. KALITA

**In the matter of**

Review Petition No. 05/2022 for Review of NRPP's Tariff Order dated March 21, 2022 regarding Tariff Order for FY 2021-22 and MYT Order for Control Period from FY 2022-23 to FY 2024-25.

**In the matter of**

Assam Power Generation Corporation Limited. (APGCL) ---- Petitioner  
Assam Power Distribution Company Limited ----Respondent1  
ABITA ----Respondent2

**Present**

APGCL: Shri Bibhu Bhuyan MD APGCL  
Shri T.Basumatary CGM (Gen)  
Shri A Talukdar DGM (PP&D)  
Ms. Aklantika Saikia, DGM (R)  
Shri A. Zaman DGM(F&A)  
Shri P. Sarmah AGM(R)  
Shri M.Konwar JM

Representative for Respondent1: Shri P.Bordoloi GM APDCL  
Shri S.K.Singha AGM APDCL  
Smti Bonita Das DM APDCL

Representative for Respondent2: Shri A. Bhattacharyya Dy. Secretary ABITA

**ORDER**  
**10.08.2022**

1. The Assam Power Generation Corporation Ltd. (herein after referred as "the Petitioner" or "APGCL") has filed a Petition before the Commission on May 26<sup>th</sup>, 2022 for review of its Tariff Order dated March 21, 2022 regarding Tariff Order for FY 2021-22 and MYT Order for the Control Period from FY 2022-23 to FY 2024-25.
2. The Petitioner has raised certain issues for reconsideration of the aforesaid Order, including computation of Interest During Construction, O&M Cost, Combined Cycle Station Heat Rate, and Special R&M Plan for combustion Inspection of GT Unit of NRPP.
3. Before entering into the merit of the grounds set forth in the Review Petition, the relevant provisions of the Regulations as regards review jurisdiction of the Commission are to be looked into.

4. The AERC (Conduct of Business) Regulations, 2004 specifies as under:

**“34. Review of the decisions, directions and orders: -**

*(1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/order of the Commission.*

*(2) An application for review shall be filed in the same manner as a petition under Chapter II of these regulations.*

*(3) When it appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.*

*(4) The application for review shall be accompanied by such fee as may be specified by Commission.” (emphasis added)*

5. The Petitioner filed the Review Petition within the specified time of 60 days from the date of issue of the Order in Petition No. 10 of 2021, i.e., March 21, 2022. Hence, the Petition is admissible under the relevant provisions of AERC (Conduct of Business) Regulations, 2004.

6. The Commission conducted a hearing on August 10<sup>th</sup> 2022 at the courtroom of the Commission. MD APGCL appeared on behalf of the Petitioner. The Chairperson initiated the hearing on the Review Petition and directed the Petitioner to submit its case.

7. MD APGCL reiterated the submissions made in the Review Petition and requested the Commission to approve the prayers made in the Petition.

8. Having heard the Petitioner, ABITA and APDCL and considering the submissions on record, the issue-wise submissions of the Petitioner, submissions made by ABITA and APDCL, along with Commission’s ruling are discussed in the following paragraphs:

## **ARR FOR NRPP PLANT FROM FY 2021-22 TO FY 2024-25**

### **9. Issue 1 - Interest During Construction (IDC)**

#### **APGCL’s Submission**

APGCL has requested the Commission to approve entire IDC of Rs. 262.84 Crore as claimed in the Petition for approval of capital cost of NRPP. In this regard, APGCL has submitted as under:

- i. To allow IDC of Rs. 22.85 Crore under head of ‘Civil Works fronts’ because delay in commencement of civil work was due to lack of planning, coordination, supervisor, and non-deployment of adequate manpower at site by BHEL and its sub-contractor;
- ii. To allow IDC of Rs. 17.53 Crore under head of ‘Termination and Reinstatement’ because delay in further work was attributable to BHEL and its sub-contractor;
- iii. To allow IDC of Rs. 29.69 Crore under head of ‘Mechanical, Electrical, C&I Work Fronts’ because delay was due to lack of sincerity, coordination, and supervision of BHEL and its sub-contractor;

- iv. To allow IDC of Rs. 37.90 Crore under head of 'Open Cycle Commissioning' because these scheduled works were delayed due to poor performance of BHEL and its sub-contractor;
- v. To allow IDC of Rs. 25.24 Crore under head of 'Combined Cycle Commissioning' because these scheduled works were delayed due to poor performance of BHEL and its sub-contractor;
- vi. To allow IDC of Rs. 23.87 Crore under head of 'Mishap and Restoration' because delay was due to BHEL and further CAA agitation led to stoppage of work to be performed at site;
- vii. To allow IDC of Rs. 26.42 Crore under head of 'New Generator Installation and Commissioning Work' because delay was due to BHEL and further work was stopped due to COVID-19 restrictions.

### **Respondents' Submission**

APDCL submitted that the Reply from the then MD, APGCL on the issue of time vis-à-vis cost overrun of the project during the course of the 26<sup>th</sup> Meeting of the State Advisory Committee on 13.02.2020 is reproduced below:

*"MD, APGCL replied that the project was sanctioned in 2009 and although many parts/turbines were procured then, actual construction started from 2012 onwards. She further informed that as NRPP is a turnkey project with fixed cost, any cost attributed to time overruns **need not be borne by the consumers.**"*

Thus, APDCL is of the opinion that the claim of IDC on the ground of time overrun is not tenable. If the delay is entirely attributable to BHEL, needful legal means may be explored by APGCL to get such amounts recovered instead of loading in tariff.

### **Commission's View**

In the Review Petition, APGCL has submitted the same reasons for delay in commissioning of plant, which were already submitted in the Petition. APGCL has not submitted any new and important evidence that was not in the knowledge of the Petitioner at the time of the original Order to justify the IDC claim. The Commission has taken a reasoned decision to disallow part of the IDC in the Order.

**Therefore, Review is not maintainable on the issue of IDC as sought by APGCL in the Review Petition.**

## **10. Issue 2 – O&M cost for NRPP**

### **APGCL's Submission**

APGCL submitted that NRPP plant is designed with Advanced F class features. However, the Commission has not allowed O&M norms applicable for Advanced F Class machine as per Regulation 50.2 (b) of AERC MYT Regulations, 2018, which specifies the norm for Advanced F class machines as Rs. 41.51 Lakh/MW for FY 2021-22.

APGCL has requested to revise approved O&M cost of NRPP as per AERC MYT Regulations, 2018 applicable for Advanced F class Machine for APR of FY 2021-22.

APGCL also requested the Commission to amend Regulation 51.2 (a) in AERC MYT Regulations, 2021 to allow the actual O&M cost of NRPP at the time of True-up after prudence check for FY 2022-23.

Further, APGCL requested the Commission to consider the Trued-up O&M Cost of FY 2021-22 for arriving at normative O&M Cost for FY 2023-24 after escalation. The same philosophy may be followed for the rest of the years of the present MYT Control Period. APGCL also requested to consider the average of the actual O&M cost of NRPP for these three years from FY 2022-23 to FY 2024-25 and set the O&M cost norm for NRPP for the next MYT Control Period.

#### **Respondents' Submission**

APDCL submitted that the Commission may consider adequate O&M expenses as per the governing Regulations for operation of the unit in a commercially sustainable manner. However, amendment of the AERC MYT Regulations in the middle of the Control Period may not be prudent. The Commission may be approached on any specific issues at the time of truing up for that year with adequate justification. APGCL may submit its views on AERC MYT Regulations for the next Control Period at the appropriate time.

#### **Commission's View**

Regulation 50.2(b) of the AERC MYT Regulations, 2018 specifies O&M expenses for both Advanced F Class machine as well as for Gas Turbine/Combined Cycle Generating Stations other than small gas turbine power generating stations. Regulation 51.2(a) of the AERC MYT Regulations, 2021 specifies O&M norm of Rs. 23.27 Lakh/MW/Year for NRPP. The AERC MYT Regulations, 2021 do not specify separate O&M norms for Advanced F Class machines.

However, this issue of O & M has been raised by APGCL in a separate petition which has been registered as petition no 03/2022. The Commission has already decided the issue in disposing the Petition No 03/2022 vide order dated 20.08.2022.

Hence, **review sought by APGCL in this regard is not maintainable.**

### **11. Issue 3 – Combined Cycle Station Heat Rate for NRPP**

#### **APGCL Submission**

The Commission has approved Combined Cycle Station Heat Rate (SHR) of 1951 kcal/kWh based on the PG Test Report for NRPP. APGCL submitted that the actual Gross Combined Cycle SHR on GCV basis is higher than the SHR in PG Test Report because PG tests are done under ideal conditions, i.e., NTPS load was decreased to facilitate PG test of NRPP because the gas pressure was changing frequently, and correction curves were applied to arrive at PG test numbers by using back calculations to show performance levels at zero hours. Therefore, APGCL requested the Commission to approve the combined cycle SHR for NRPP at 1988 kcal/kWh on GCV basis as per guaranteed value of Contract.

#### **Respondents' Submission**

APDCL submitted that the Commission has deliberated in detail on the approved parameter. Submission of the Petitioner may be looked into by the Commission in the perspective of original Petition.

#### **Commission's View**

The Commission in the Tariff Order dated March 31, 2017 had directed APGCL to submit the PG Test Report for NRPP after commissioning of the same. Accordingly, the Commission has approved Combined Cycle Heat Rate of 1951 kcal/kWh based on the PG Test Report and there is no error apparent on the face of the record.

However, the Commission will take up the matter at the time of true up and APR on the basis of submission of actual data by APGCL.

The issue of SHR of NRPP is accordingly decided as discussed above.

Hence, **review sought by APGCL in this regard is not maintainable.**

## **12. Issue 4 – Combustion Inspection of the GT Unit of NRPP**

### **APGCL Submission**

APGCL has submitted that as per the OEM Guidelines, the GT Unit of NRPP requires a mandatory Combustion Inspection (CI) at the completion of 12,000 Running Hours (RH). The RH of the GT Unit of NRPP as on 06.04.2022 is 7731 and GT Unit of NRPP will complete 12000 RH by 04.11.2022. An offer from the M/s BHEL-GE Gas Turbine Services Pvt. Ltd. (BGGTS), the authorized service provider of the OEM M/s GE in India, for the spares and service of the CI of the GT Unit of NRPP was received on 08.03.2022. The Hearing on the Tariff Petition submitted by APGCL for NRPP Petition was held by the Commission on 02.03.2022. As such, by the time APGCL received the offer for CI work of the GT of NRPP from M/s BGGTS, the Hearing process for the Tariff Petition submitted by APGCL for NRPP was already completed. In view of the above, APGCL was unable to submit the CI work of the GT Unit as Special R&M Plan for NRPP, neither in the original Tariff Petition nor as additional submission.

APGCL has cited Regulation 6.15 of AERC MYT Regulations, 2021, which specifies that:

*“In case the capital expenditure is required for emergency work which has not been approved in the Capital Investment Plan, the licensee shall submit an application, containing all relevant information along with reasons justifying the emergency nature of the proposed work, seeking approval by the Commission....”*

APGCL has submitted that CI work of the GT Unit of NRPP is an emergency work as it is to be done as per the maintenance schedule based on the completion of RH as per the mandatory guidelines of the OEM. APGCL Board of Directors, taking cognizance of the emergency nature of the work, approved it at an estimated cost of Rs. 39.56 Crore in FY 2022-23 in the 95<sup>th</sup> Meeting of the Board of Directors of APGCL held on 01.04.2022. Therefore, APGCL has requested the Commission to approve the work of Combustion Inspection of the GT Unit of NRPP as Special R&M Plan at estimated cost Rs. 39.56 Crore for FY 2022-23.

**Commission's View**

Review cannot be sought when the data was not submitted at all to the Commission. The onus of submission of correct and timely data is on APGCL. It is observed that APGCL, in its Petition and additional submissions, has not intimated the Commission about the CI work of the GT Unit of NRPP. While the cost may not have been known, the fact that the CI work was due in FY 2022-23 was known to APGCL. As this was known to APGCL, it should have informed the Commission before issuing the Order for NRPP. Further, as this is a planned work based on RH, it cannot be considered as an emergency work. Also, the Board of APGCL has approved this work on 01.04.2022, i.e., after the issue of the Tariff Order. On account of all the above reasons, there is no ground for review of the Order.

Hence, **review sought by APGCL in this regard is not maintainable.**

**Hence, review sought by APGCL is not maintainable on any of the issues raised in the Review Petition.**

**With the above observations and decisions on the issues submitted for review, the Review Petition filed by the Petitioner stands disposed of.**

**Sd/-  
(S.N. Kalita)  
Member (T), AERC**

**Sd/-  
(K.S. Krishna)  
Chairperson, AERC**